

**PELICAN GROUP OF LAKES  
IMPROVEMENT DISTRICT**  
P.O. Box 336, Pelican Rapids, MN 56572-0336

October 2, 2004

Hon. Mike Hatch  
Attorney General  
State of Minnesota  
1400 NCL Tower  
445 Minnesota St.  
St. Paul, MN 55101

RE: Request for Formal Legal Opinions

Dear Attorney General Hatch:

This request is made on behalf of the Pelican Group of Lakes Improvement District ("PGOLID"), a political subdivision created pursuant to MSA § 103B.501. PGOLID's governing Board approved submission of this request at its October 2, 2004 regular meeting.

The questions concern who is eligible to vote at the statutory annual meeting of the lake improvement district ("LID"). Section 103B.571 requires that the LID conduct an annual meeting which includes the following agenda:

- (a) At the annual meeting the district property owners present shall:
  - (1) elect one or more directors to fill any midterm vacancies in the board of directors;
  - (2) approve a budget for the fiscal year;
  - (3) approve or disapprove proposed projects by the district having a cost to the district in excess of \$5,000; and
  - (4) take up and consider other business that comes before them.
- (b) At the annual meeting all district property owners, including absent members as provided in the order establishing the district, shall elect one or more directors for board positions with expiring terms.

In turn, section 103B.505(6) defines "Property owner" as "the owner of real property within the district or the buyer under contract for deed of property in the district."

However, the Legislature does not appear to have provided answers to many other questions that we have encountered while conducting our annual meetings.<sup>1</sup>

The core question that has arisen is:

Question 1: Can a LID establish voting procedures that give one vote to each parcel of land in the district rather than one vote per named owner or owners of the parcel?

If the answer to question 1 is negative, what are the answers to the following questions?

Question 2: Does the term “property owner” include all natural persons who are listed on the deed or contract for deed, even if they are less than the age of majority?

Question 3: Is there any limit to the number of natural persons who can be listed on a deed or contract for deed who are considered a “property owner” and are therefore entitled to notice of, and vote at, annual meetings?

Question 4: Does a “property owner” get more than one vote if he, she, they or it own more than one separately identified parcel of real property within PGOLID?

Question 5: Does the answer to the question immediately above change if any of the properties have some owners who are the same, but also have different owners? For example, parents A and B own parcel 1 together with their children C and D. An adjacent parcel 2 within PGOLID is owned by A, B and C, while adjacent parcel 3 within PGOLID is owned by A, B and D.

Question 6: How many “property owners” are entitled to vote if a parcel within PGOLID is owned by a natural person and a legal entity such as a trust?

Question 7: Who is the “property owner” when real property within PGOLID is held by a trust? Is it the trustee(s) or the beneficiary or beneficiaries, or all or some of them?

Question 8: Does a trust, partnership or corporation “property owner” get more than one vote if the respective entity has multiple trustees (or beneficiaries),

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<sup>1</sup> We are aware your office previously provided an informal letter on this issue, a copy of which is attached for reference. We note further that the Minnesota Department of Natural Resources has promulgated regulations which contain definitions of “owner” and “resident owner” for purposes of petitioning to establish a Lake Improvement District. See Minnesota Rules 6115.0900 *et seq.* If you determine those Rules impact this issue, please include them in your consideration of the questions.

Attorney General Hatch

October 5, 2004

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multiple partners or multiple shareholders? If so, how many votes and is there a maximum?

Question 9: If a natural person has lost his or her right to vote in state elections through judgment of a court of competent jurisdiction, does that person lose their "property owner" voting rights?

None of these questions are hypothetical. All of them have been encountered by PGOLID in either providing notice of the annual meeting or in absentee or in-person voting at the annual meeting. We will therefore appreciate your guidance on these issues, the resolution of which are crucial to the operation of PGOLID.

Please let me know if your office needs additional information about PGOLID or the background or reasons for these questions. Thank you in advance for your legal opinions.

Sincerely,

The Pelican Lake Group of Lakes Improvement District

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By Daniel J. Crothers,  
It's Board Chair

cc: David Hauser, Otter Tail County Attorney